

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

5 KELLY CAHILL, SARA JOHNSTON,)
6 LINDSAY ELIZABETH, and HEATHER)
7 HENDER, individually and on)
behalf of others similarly)
situated,)
)
8 Plaintiffs,)
)
9 vs.) No. 3:18-CV-01477-JR
)
10 NIKE, INC., an Oregon)
Corporation,)
11)
12 Defendant.)

VIDEOTAPED REMOTE DEPOSITION OF DAVID NEUMARK, Ph.D.
San Francisco, California
Tuesday, August 31, 2021
Volume I

21 Reported by:
22 CATHERINE A. RYAN, RMR, CRR
23 CSR No. 8239
24 Job No. 4778006
25 PAGES 1 - 299

1 MR. KAN: Objection. Vague and ambiguous. 09:53:58

2 THE WITNESS: Can I just ask you to --

3 when you say did I do any analysis of jobs, can I

4 just ask you to explain if you have something

5 specific in mind? 09:54:07

6 MS. DAVIS: Sure.

7 Q Did you learn anything about the content
8 of any of Nike's jobs that made you feel confident
9 that grouping job subfamily and job level together
10 was properly grouping employees who performed 09:54:25
11 substantially similar work?

12 A So I did not do any what is called "job
13 analysis," which is not something people in my field
14 do, ~~so~~. I hope I'm defining it correctly as what
15 industrial organization psychologists do. I did not 09:54:41
16 observe work. I did not talk to workers or anything
17 of that sort.

18 I relied on Dr. Lundquist's opinion on
19 this, and that is her area of expertise, to my
20 understanding, and I would say I relied secondarily 09:54:58
21 on things Nike said -- I think they're cited in this
22 paragraph. They may be cited elsewhere -- about
23 this being the way in which they organize work
24 and -- you know, and think about -- about workers
25 having similar skills, et cetera. 09:55:17

1 correct? 15:03:33

2 A I have never -- I have not, in this
3 report, ever discussed the determination of which
4 you subfamily_{\wedge} are hired in, which is what I control for
5 in column 2, as related to discrimination. Whether 15:03:50
6 other evidence might be introduced in the future
7 that suggests it is, I might -- I might -- I might
8 go back to that differently, but at this point, no.

9 Q Column 3 does add job level, correct?

10 A Yes. 15:04:04

11 Q Right.

12 And then column 4 is the interaction of
13 job subfamily and job level, correct?

14 A Yes.

15 Q Between columns 3 and 4, which one do you 15:04:16
16 believe is the most accurate or most appropriate to
17 use in this case?

18 MR. KAN: Objection. Vague and ambiguous.

19 THE WITNESS: I think -- I think what I
20 say and I show here is that column 4 is probably 15:04:30
21 more appropriate for equal pay claim, and that's
22 based -- you know, we discussed this before, but
23 princ- -- you know, reason number one would be
24 Dr. Lundquist's opinion that -- that subfamily times
25 are level interactions ~~have~~ the appropriate level of 15:04:46

1 analysis -- unit of analysis for an equal pay claim. 15:04:49
2 It turns out column 3 estimates are almost the same,
3 but that's neither here nor there.

4 BY MS. DAVIS:

5 Q Yeah. They're almost the same, but 15:04:57
6 they're not identical?

7 A Right.

8 Q So -- right.

9 So what -- so can you just explain in --
10 you know, I'm not an expert like you, so in the 15:05:06
11 easiest, simplest way you can, the difference
12 between column 3 and column 4?

13 A Sure.

14 So column 3 -- forget about all the other
15 controls, just as -- education, you know, age, all 15:05:19
16 that stuff. There's -- column 3 has subfamily
17 controls, and that allows the wages to differ
18 systematically by subfamily ~~or by the subfamily~~
19 ~~algorithm~~. Some are paid more; some are paid less.

20 And it allows pay to differ systematically by level. 15:05:35
21 But because there aren't interactions, though, the
22 differences between -- just call it level one and
23 level two, level three and four, et cetera, are
24 constrained to be the same for each subfamily.

25 There's -- there's -- there are -- so there are -- 15:05:50

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

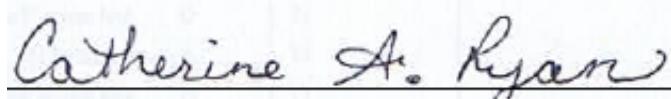
4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath; that
8 a record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; that the foregoing is a true
11 record of the testimony given.

12 Further, that if the foregoing pertains to the
13 original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [X] was [] was not requested.

16 I further certify that I am neither
17 financially interested in the action nor a relative
18 or employee of any attorney or any party to this
19 action.

20 IN WITNESS WHEREOF, I have this date
21 subscribed my name.

22 Dated: 09/07/2021

23 

24 Catherine A. Ryan, RMR, CRR

25 CSR No. 8239

Errata Sheet for the Deposition of David Neumark
Taken on August 31, 2021 in the matter of *Cahill et al. v. Nike, Inc.*

Page: 20

Line: 15

Change: "average" to "averages"

Reason: transcription error (TE)

Page: 21

Line: 6

Change: "An" to "The"

Reason: TE

Page: 27

Line: 6

Change: "me" to "me – "

Reason: TE

Page: 32

Line: 3

Change: "statistical" to "statistically"

Reason: TE

Page: 32

Line: 14

Change: "variant" to "variance"

Reason: TE

Page: 33

Line: 10

Change: "criteria" to "criterion"

Reason: TE

Page: 33

Line: 13

Change: "is" to "as"

Reason: TE

Page: 33

Line: 14

Change: "informed." to "informative."

Reason: TE

Page: 35

Line: 10-11

Change: "there. But" to "there – but"

Reason: TE

Page: 35

Line: 20

Change: "any" to "that any"

Reason: Clarification (C)

Page: 38

Line: 14

Change: delete ", so"

Reason: C

Page: 41

Line: 18

Change: "and I simply" to "and later I simply"

Reason: Clarification

Page: 45

Line: 21

Change: "scales" to "skills"

Reason: TE

Page: 46

Line: 7

Change: "moves" to "means"

Reason: TE

Page: 46

Line: 13

Change: "reference" to "referenced"

Reason: TE

Page: 53

Line: 24

Change: "subfamily levels." To "subfamily and levels."

Reason: TE

Page: 57

Line: 23

Change: "some does." to "one does."

Reason: TE

Page: 63

Line: 19

Change: "has" to "as"

Reason: TE

Page: 69

Line: 14

Change: "It's like I can't identify." to "I can't identify it."

Reason: C

Page: 69

Line: 17

Change: "shortfall." to "shortfall?"

Reason: TE

Page: 75

Line: 13

Change: "about. The" to "about – the"

Reason: TE

Page: 78

Line: 13

Change: "simplist" to "simplest"

Reason: TE

Page: 81

Line: 10

Change: "of" to "about"

Reason: TE

Page: 82

Line: 10

Change: "that that that that" to "that"

Reason: TE/C

Page: 84

Line: 6-7

Change: "We got/we got" to "We've got/we've got" (3 X)

Reason: TE

Page: 90

Line: 8

Change: "research" to "in research"

Reason: TE

Page: 91

Line: 23

Change: "the appendix" to "vs. the appendix"

Reason: TE

Page: 92

Line: 16

Change: "corpuses" to "corpora"

Reason: Correction

Page: 95

Line: 25

Change: "day" to "data"

Reason: TE

Page: 116

Line: 8

Change: "has" to "hasn't"

Reason: TE

Page: 126

Line: 24

Change: "matter" to "matters"

Reason: TE

Page: 127

Line: 24

Change: "linguistic" to "linguistically"

Reason: TE

Page: 127

Line: 25

Change: "say," to "say:"

Reason: TE

Page: 135

Line: 14, 15

Change: "square" to "squared" (2X)

Reason: TE

Page: 145

Line: 7

Change: ", the person who got the highest degree." to "the person got the highest degree from."

Reason: C

Page: 146

Line: 8

Change: "not just" to "not that"

Reason: TE

Page: 149

Line: 12

Change: "spell" to "spelled"

Reason: TE

Page: 149

Line: 12-13

Change: "present it" to "presented"

Reason: TE

Page: 150

Line: 24

Change: "everyone. There" to "everyone – there"

Reason: TE

Page: 154

Line: 11

Change: "turned down," to "turned on,"

Reason: TE

Page: 161

Line: 18

Change: "send me the report" to "send me the quote from the report"

Reason: Clarification

Page: 161

Line: 20

Change: "a cite page" to "and cite a page"

Reason: TE

Page: 175

Line: 23-24

Change: "estimate, that you did obtain from the data" to "estimate that you did obtain from the data,"

Reason: TE

Page: 176

Line: 23-24

Change: "five. One I don't report. I recorded." to ", five are recorded."

Reason: TE

Page: 177

Line: 10

Change: "by .56" to "at .56"

Reason: TE

Page: 185

Line: 14

Change: change "think to do it" to "think of to do with it."

Reason: TE

Page: 193

Line: 11

Change: "do worse." to "do better."

Reason: Correction/TE

Page: 197

Line: 18

Change: "P level" to "P value"

Reason: TE

Page: 202

Line: 11

Change: "date" to "data"

Reason: TE

Page: 204

Line: 11

Change: "Time and" to "Time in"

Reason: TE

Page: 209

Line: 20

Change: "could" to "couldn't"

Reason: TE

Page: 209

Line: 24

Change: "having this ranking compensation" to ?

Reason: TE – but I can't tell from written transcript what I said

Page: 213

Line: 4

Change: "are hired" to "you are hired"

Reason: TE

Page: 213

Line: 25

Change: "have" to "are"

Reason: TE

Page: 214

Line: 18-19

Change: "by subfamily or by the subfamily algorithm" to "by subfamily."

Reason: TE/Clarification

Page: 217

Line: 1

Change: "unmet" to "always"

Reason: TE

Page: 229

Line: 1

Change: "take" to "make"

Reason: TE

Page: 229

Line: 17

Change: "policy change for the" to "policy change. For the"

Reason: TE

Page: 229

Line: 18

Change: "employees. And note it's 15,000 versus about 3600." to "employees – and note it's 15,000 versus about 3600 --"

Reason: TE

Page: 229

Line: 19

Change: "There" to "there"

Reason:

Page: 233

Line: 4

Change: "2018, '19" to "2018-19"

Reason: TE

Page: 235

Line: 17

Change: "there is" to "merits"

Reason: TE

Page: 237

Line: 6

Change: "time and" to "time in"

Reason: TE

Page: 237

Line: 22

Change: "as respect" to "with respect"

Reason: TE

Page: 238

Line: 16

Change: "first" to "for"

Reason: TE

Page: 240

Line: 21

Change: "pre-periods" to "pre-period's"

Reason: TE

Page: 243

Line: 9

Change: "before, it's September 7 – 27 – '17, is – that's" to "before September '17, that's"

Reason: Clarification

Page: 244

Line: 5

Change: "interactives" to "interactions"

Reason: TE

Page: 244

Line: 18

Change: "data" to "Stata"

Reason: TE

Page: 244

Line: 24

Change: "in" to "on"

Reason: TE

Page: 245

Line: 1

Change: "its data" to "Stata"

Reason: TE

Page: 246

Line: 3

Change: "report" to "support"

Reason: TE

Page: 246

Line: 6

Change: "The best estimate is get" to "The best estimate is women get"

Reason: TE

Page: 248

Line: 6-7

Change: "common sense" to "close to Column 6"

Reason: TE

Page: 252

Line: 4

Change: "control" to "controls"

Reason: TE

Page: 252

Line: 8

Change: "in the sample" to "with the sample"

Reason: TE

Page: 254

Line: 4

Change: After period, add "But this refers to explaining the gender gap in base pay, not explaining variation in base pay."

Reason: Clarification

Page: 261

Line: 14

Change: "pose" to "impose"

Reason: TE

Page: 267

Line: 8

Change: "professor" to "professor candidates"

Reason: TE/clarification

Page: 268

Line: 1

Change: "application" to "applications"

Reason: TE

Page: 268

Line: 18

Change: "level of industry" to "cell of industry and"

Reason: TE

Page: 270

Line: 13

Change: "five" to "at the five"

Reason: TE

Page: 279

Line: 12

Change: "these controls" to "the gender variable"

Reason: TE/clarification

Page: 280

Line: 3

Change: "process, makes" to "process. Makes"

Reason: TE

Page: 282

Line: 9

Change: "CHR" to "CHRO"

Reason: TE/clarification

Page: 283

Line: 3

Change: "the profits" to "steered"

Reason: TE

Page: 283

Line: 8

Change: "interaction" to "interacting"

Reason: TE

Page: 285

Line: 10

Change: "looser" to "loose"

Reason: TE

Page: 288

Line: 9

Change: "we discuss" to "we discussed"

Reason: TE

Page: 297

Line: 7, 8

Change: "anything" to "anything's" 2X

Reason: TE



David Neumark

9/23/21

Date